



Pre-Appeals Conference Review of Business Tax and Fee Appeals Chapter 2 of the Rules for Tax Appeals (RTA) (Regulations 5200-5250)

1. Articles 1 through 5 of chapter 2 of the RTA apply to the filing and pre-appeals conference review of petitions, claims for refund, and requests for relief regarding the Board's business tax and fee programs. (Regulations 5200-5250.)
2. Chapter 2 improves the Board's practices by codifying the policy of accepting untimely petitions for redetermination as late protests (now "administrative protests") and clarifying that taxpayers requesting relief may request oral Board hearings. (Regulations 5220 and 5249.6.)
3. Overview of chapter 2's pre-appeals conference review process:
 - A. A petition, claim, administrative protest, or request for relief (petition) is filed with the appropriate section or group, such as the Petitions Section.
 - B. The appropriate section or group issues an acknowledgement letter containing its contact information and, if necessary, a request for additional information.
 - C. The appropriate section or group reviews the petition and other relevant information and makes the initial decision to grant or deny in whole or in part.
 - D. Taxpayers may request an appeals conference or oral Board hearing to further appeal initial denials of petitions.
4. Article 1 explains the application of chapter 2, incorporates the definitions from regulations 5511 and 5512 of chapter 5, and provides that the International Fuel Tax Agreement supersedes chapter 2. (Regulations 5200-5202.)
5. Article 2A applies to the filing and review of petitions for redetermination. Article 2A explains when a person is "directly interested in a notice of determination" and authorized to file a petition. Article 2A prescribes the contents of petitions, provides notice of the statutes of limitations, and explains that the filing of a timely petition stays collection activities, but will not stop the accrual of interest. Article 2A allows taxpayers to request appeals conferences and oral Board hearings and explains that petitions will be reviewed for "consistency, adequacy of procedures, proper application of law, and consideration of any recent law changes or Board Memorandum Opinions." Article 2A also explains that the scope of Hazardous Substances Tax Law, Covered Electronic Waste Recycling Fee, and Water Rights Fee petitions may be limited. (Regulations 5210-5219.)
6. Article 2B codifies the Board's practice of considering late protests, renames late protests "administrative protests," and explains that protests will be reviewed like petitions, except the Board may deny requests for appeals conferences or oral Board hearings and filing a protest does not stay collection. (Regulations 5220-5220.6.)
7. Article 2C applies to the review of jeopardy determinations. Article 2C explains that jeopardy determinations are *immediately* due and payable. Article 2C provides for the filing of petitions and applications for administrative hearings, prescribes their contents, provides notice of the applicable statutes of limitations, explains that petitions will not be accepted without adequate security, and explains that collection activities will not be stayed without adequate security. Article 2C also explains that jeopardy petitions are



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reviewed like other petitions, administrative hearings are conducted like appeals conferences, and petitions and applications may be consolidated into one administrative hearing. (Regulations 5221-5229.)

8. Article 3 applies to claims for refund. Article 3 identifies the types of Motor Vehicle Fuel Tax claims that are filed with the *Controller* and explains that the scope of Hazardous Substances Tax Law, Covered Electronic Waste Recycling Fee, and Water Rights Fee claims may be limited. Article 3 prescribes the contents of claims and identifies the applicable statutes of limitations. Article 3 warns taxpayers against using “self-help” remedies, instead of filing claims. Article 3 contains specific requirements for claims for refund of Diesel Fuel Tax, Alcoholic Beverage Tax paid on certain alcoholic beverages, and Cigarette and Tobacco Products Tax paid on purchases of stamps or meter register settings. Article 3 requires staff to explain the reasons for denying a claim, allows taxpayers to request an appeals conference or oral Board hearing, and provides that requests “will be liberally granted.” Article 3 also explains that the Board approves refunds over \$50,000 and that refunds can be reduced. (Regulations 5230-5239.)
9. Article 4A applies to requests for innocent spouse relief. Article 4A prescribes the contents of requests and cross-references the applicable limitations period. Article 4A explains that the Offer in Compromise (OIC) Section reviews requests and will contact the non-requesting spouse. Article 4A explains that when a request is denied, the OIC Section will give the requesting spouse an opportunity to request *other equitable relief*. Article 4A also explains that when the OIC Section denies other equitable relief, the requesting spouse may request reconsideration at an oral Board hearing, and, if the request is granted, may be required to attend an appeals conference. (Regulations 5240-5242.)
10. Article 4B applies to successors’ requests for relief of penalties imposed on their unrelated predecessors, permits requests to be included in successors’ petitions, and requires all requests to be filed in the same manner as petitions. (Regulation 5243.)
11. Article 4C applies to all other requests for relief. Article 4C identifies the types of liabilities from which relief may be granted, and prescribes the contents of requests. Article 4C explains that: (1) staff from the appropriate section or group will initially decide whether to grant or deny relief; (2) if the person requesting relief disagrees, the person may request reconsideration from the appropriate Deputy Director; and (3) if the person disagrees with the Deputy Director, the person may request an oral Board hearing and, if the request is granted, the person may be required to attend an appeals conference. Article 4C also gives taxpayers the option to include their requests for relief in their petitions or claims. (Regulations 5244-5249.6.)
12. Article 5 cross-references regulations 1807 and 1828 applicable to claims and inquires regarding the incorrect or nondistribution of local and district taxes and explains how to file claims and inquiries. (Regulation 5250.)